

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:12-MJ-1742

UNITED STATES OF AMERICA

v.

DEMETRIO RIOS

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MOTION TO CONTINUE

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to 18 U.S.C. § 3161, hereby moves the Court for an order continuing the trial of this matter until the Court's July 2013 term. In support of this motion the Government shows:

1. The defendant is charged in a three-count misdemeanor criminal information, filed September 12, 2012, charging him with driving while impaired, in violation of 18 U.S.C. § 13, assimilating North Carolina General Statute § 20-138.1, failure to maintain lane, in violation of 18 U.S.C. § 13, assimilating North Carolina General Statute § 20-146(d)(1), and refusing to submit to an alcohol test, in violation of 18 U.S.C. § 3118.

2. On May 15, 2013, the defendant pled not guilty and trial was set for June 13, 2013.

3. The Government has not previously moved to continue this case. The Defendant has filed five motions to continue.

4. Since the trial date was set, counsel for the parties have discussed possible resolution. It appears that no such resolution will be reached.

5. In light of that impasse, the Government will need to prepare its witnesses for trial. One of the Government's essential witnesses is a former soldier who now resides in Nebraska and will accordingly have to travel a great distance to attend trial.

6. The Government has conferred with counsel for the Defendant and the Defendant consents to this continuance.

Based on the foregoing, the Government respectfully requests that the trial of this case be continued until the July 2013 term of Court, or a later date as determined by the Court, and that the time period resulting from the delay be excluded under 18 U.S.C. § 3161(h) (7) (A) .

Respectfully submitted, this 31st day of May, 2013.

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CERTIFICATE OF SERVICE

I certify that, on this the 31st day of May, 2013, the foregoing MOTION was electronically filed with the Clerk of Court and served upon defense counsel using the CM/ECF system:

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ORDER

1. The United States, by and through the United States Attorney for the Eastern District of North Carolina, has moved the Court to continue the trial of the above-captioned case.

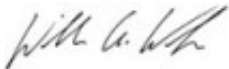
2. After due consideration and for good cause shown, the Court hereby ALLOWS the Motion to Continue.

3. The Court finds that such continuance is in the best interest of justice.

4. It is further ORDERED that any delay that results from this continuance be excluded from the Speedy Trial Act computation pursuant to 18 U.S.C. § 3161(h) (7) (A), for the ends of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial.

5. Trial in this matter is continued until the July 11, 8:00 am term of court in Raleigh.

So ordered, the 3rd day of June, 2013.



United States Magistrate Judge